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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)		Docket Number (Optional) 133630-0003
First Named Inventor: <u>Doris Hjorth Hansen</u>		Art Unit: <u>3733</u>
Application Number: <u>10/553,143</u>		Examiner: <u>Jay R. Sigler</u>
Filed: <u>10/14/2005</u>		
Title: <div style="border: 1px solid black; padding: 5px; display: inline-block; width: 600px; height: 40px; vertical-align: top;">SUTURE BAND</div>		
Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450		
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.		
The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.		
APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION. NOTE: A grantable petition requires the following items: (1) Petition fee. (2) Reply and/or issue fee. (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995, and for all design applications; and (4) Adequate showing of the cause of unavoidable delay.		
1. Petition fee <input checked="" type="checkbox"/> Small entity -- fee \$ <u>270.00</u> (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27. <input type="checkbox"/> Other than small entity -- fee \$ _____ (37 CFR 1.17(l)).		
2. Reply and/or fee A The reply and/or fee to the above-noted Office action in the form of _____ (Identify the type of reply): <input type="checkbox"/> has been filed previously on _____ <input type="checkbox"/> is enclosed herewith. B The issue fee of \$ _____ <input type="checkbox"/> has been filed previously on _____ <input type="checkbox"/> is enclosed herewith.		

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

- 4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Beverly M. Bunting/

11/21/2008

Signature

Date

Beverly M. Bunting

36,072

Typed or printed name

Registration Number, if applicable

Butzel Long, IP Docketing Dept., 350 Main Street, Suite 300

248-258-1093

Address

Telephone Number

Ann Arbor, MI 48104

Address

Enclosure ☒ **Fee Payment**

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☐

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

☒ ^{electronically} transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

11/21/2008

/Saundra M. Lewis/

Date

Signature

Saundra M. Lewis

Typed or printed name of person signing certificate

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

/Beverly M. Bunting/

11/21/2008

Signature

Date

Beverly M. Bunting

36,072

Typed or printed name

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

The present Application was abandoned since the USPTO did not actually mail the Office Communication dated December 12, 2007 and referred to in the Notice of Abandonment dated June 30, 2008.

The Applicant checked private pair and did not see any entry corresponding to the December 12, 2007 Office Communication on November 17, 2008. The Applicant then checked public pair, and discovered an entry for the Office Communication in the Transaction History but not in the Image Wrapper.

The Applicant contacted Examiner Sigler on November 17, 2008, and the Examiner indicated that he had prepared an Office Communication on December 12, 2007, and confirmed that there was no record of it being actually mailed to the Applicant.

The Examiner said that he would check into the status of the Office Communication, and as a result, it was sent electronically to the Applicant on November 20, 2008.

(Please attach additional sheets if additional space is needed.)



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,143	10/13/2006	Doris Hjorth Hansen	133630-0003	2276
50659 7590 06/30/2008 BUTZEL LONG IP DOCKETING DEPT 350 SOUTH MAIN STREET SUITE 300 ANN ARBOR, MI 48104			EXAMINER SKLER, JAY R	
			ART UNIT 3733	PAPER NUMBER
			NOTIFICATION DATE 06/30/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@butzel.com
boudrie@butzel.com

Notice of Abandonment

Application No.

10/553,143

Examiner

JAY R. SIGLER

Applicant(s)

HANSEN, DORIS HJORTH

Art Unit

3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

- 1.
- ☒
- Applicant's failure to timely file a proper reply to the Office letter mailed on
- 12 December 2007
- .

(a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.(b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

(c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).(d) ☒ No reply has been received.

- 2.
- ☐
- Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

(a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).(b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.

The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.

(c) ☐ The issue fee and publication fee, if applicable, has not been received.

- 3.
- ☐
- Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).

(a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.(b) ☐ No corrected drawings have been received.

- 4.
- ☐
- The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

- 5.
- ☐
- The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

- 6.
- ☐
- The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

- 7.
- ☐
- The reason(s) below:

/Eduardo C. Robert/
Supervisory Patent Examiner, Art Unit 3733/J. R. S./
Examiner, Art Unit 3733

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,143	10/13/2006	Doris Hjorth Hansen	133630-0003	2276
59659	7590	12/13/2007		
Thomas Moga Butzel Long STONERIDGE WEST 41000 WOODWARD AVENUE BLOOMFIELD HILLS, MI 48304				
EXAMINER SIGLER, JAY R				
ART UNIT		PAPER NUMBER		
4111				
NOTIFICATION DATE		DELIVERY MODE		
12/12/2007		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ball@butzel.com
patent@butzel.com
burns@butzel.com

Office Action Summary

Application No.

10/553,143

Applicant(s)

HANSEN, DORIS HJORTH

Examiner

JAY R. SIGLER

Art Unit

4111

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any entered patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 14 October 2005.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Suture band having a locking mechanism with wedging means.

Claim Objections

2. Claims 5 and 6 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 5 and 6 have not been further treated on the merits.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Golds (U.S. Patent 5,356,417).

a. Concerning claim 1, Golds teaches a suture band device (10) comprising an elongated flexible band (12) having first and second ends, a needle (46) attached to the first end of the band, a buckle (14) attached proximate the second end of the band for receiving and locking the band

Art Unit: 4111

(see Abstract), **characterized in that the buckle comprises a locking mechanism (16 and 18) which enables the band to be locked at any point along its length (col. 5, ll. 57-63; embodied by the strap tightened to desired tension and Fig. 1-4) and in that the locking mechanism comprises a wedging means (18).**

b. Concerning claim 2, the locking mechanism substantially prevents retrograde movement of the band through the buckle (col. 5, ll. 67-68; embodied by teeth 28 preventing slippage of the strap in the housing).

c. Concerning claim 7, Golds teaches a method of approximating bone tissue comprising encircling said tissue with a suture band device as defined in paragraph 4(a) above, threading a buckle of the suture banding device with a band of the suture banding device, and constricting the device around the bone tissue (col. 5, ll. 43-68)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golds (U.S. Patent 5,356,417) as applied to claim 1 or 2 above, and further in view of Chopp, Jr. et al. (U.S. Patent 4,399,592).

- d. Concerning claim 3, Golds teaches the claimed invention including a locking mechanism with a wedging means, but does not teach the wedging means having a substantially spherical or cylindrical body. Chopp, Jr. et al. teaches a device used to encircle and hold objects together, that includes a band 26 and a locking mechanism 24 with a wedging means 28 that is substantially spherical for lockingly engaging the strap (see Abstract). The claim would have been obvious because the substitution of one known element, namely the locking mechanism of Golds, for another, the locking mechanism of Chopp, Jr. et al., would have yielded predictable results to one of ordinary skill in the art at the time of the invention. The predictable results being to lockingly engage the strap.
- e. Concerning claim 4, the wedging means of Chopp, Jr. et al. includes a roughened surface (col. 3, ll. 15-17).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAY R. SIGLER whose telephone number is (571)270-3647. The examiner can normally be reached on Monday through Thursday from 8 AM to 4 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Yao can be reached on (571) 272-1224. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JRS

/Sam Chuan C. Yao/
Supervisory Patent Examiner, Art Unit 4111

Notice of References Cited

Application/Control No.

10/553,143

Applicant(s)/Patent Under
Reexamination
HANSEN, DORIS HJORTH

Examiner

JAY R. SIGLER

Art Unit

4111

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,330,489 A	07-1994	Green et al.	606/151
*	B	US-5,383,905 A	01-1995	Golds et al.	606/74
*	C	US-6,302,889 B1	10-2001	Keller, Arnold	606/74
*	D	US-2004/0059357	03-2004	Koseki, Tomoaki	606/151
*	E	US-5,766,218	06-1998	Arnott, Richard J.	606/151
*	F	US-5,462,542	10-1995	Alesi, Jr., Thomas W.	606/151
*	G	US-299,540	06-1884	Herkimer, J.	24/171
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.